

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PETER C. TAYLOR,

Petitioner,

v.

KENNETH T. McKEE,

Respondent.

CASE NO. 2:06-CV-10175
HONORABLE GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

**OPINION AND ORDER DENYING THE MOTION TO EXPAND COURT
RECORD AND THE MOTION OF INACCURATE IDENTIFICATION OF BULLET
IN MEDICAL EXAMINER REPORT/TESTIMONY WHICH SUPPORT
PETITIONER[’S] CASE OF POLICE OFFICER ACTING IN SELF-DEFENSE
(ACTUAL INNOCENCE)**

On November 20, 2007, this Court denied petitioner’s application for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2254. *Taylor v. McKee*, No. 2007 WL 4171260 (E.D. Mich. November 20, 2007). On December 17, 2007, petitioner filed a notice of appeal with the United States Court of Appeals for the Sixth Circuit. [Court Dkt. Entry # 37]. On January 9, 2008, this Court denied petitioner a certificate of appealability and leave to appeal in forma pauperis. *Taylor v. McKee*, No. 2008 WL 94746 (E.D.Mich. January 9, 2008). On July 10, 2008, the United States Court of Appeals for the Sixth Circuit denied petitioner a certificate of appealability and dismissed the appeal. *Taylor v. McKee*, U.S.C.A. No. 08-1022 (6th Cir. July 10, 2008).

On July 23, 2008, petitioner filed a motion to expand the record and a motion for inaccurate identification of a bullet in the medical examiner's report in support of his actual innocence claim with this Court. For the reasons stated below, the motions are DENIED.

It is well settled that the filing of a notice of appeal transfers jurisdiction over the merits of the appeal to the appellate court. *Workman v. Tate*, 958 F. 2d 164, 167 (6th Cir. 1992). Because petitioner filed a notice of appeal, this Court lacks jurisdiction over petitioner's post-judgment motions. See *Olivarez v. Quarterman*, 251 Fed.Appx. 295 (5th Cir. 2007). Moreover, in light of the fact that the Sixth Circuit has dismissed petitioner's appeal, petitioner's motions are now moot.

Based upon the foregoing, IT IS ORDERED that the motion to expand the record and the motion of inaccurate identification of bullet in medical examiner report/testimony which supports petitioner's actual innocence claim [Court Dkt. Entry # 42] are **DENIED**.

Dated: March 10, 2009

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE
Copies of this Order were served upon attorneys of record on
March 10, 2009, by electronic and/or ordinary mail.

S/Josephine Chaffee
Deputy Clerk